IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

WP(C).No. 2528 of 2007(A)

PETITIONER:

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON / / , THE COURT ON 22/01/2007 DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 2528 of 2007

Dated this 22nd day of January, 2007

JUDGMENT

Sri.Sunny Mathew, the learned counsel for the petitioner submits that Ext.P1 pass issued by the Secretary of the Panchayat containing the signatures of the Tahsildar as well as the Geologist will show that the seizure as per Ext.P2 Mahazar was perse illegal. According to the learned counsel, even though the time of seizure is mentioned as 2.P.M. in Mahazar the actual time of seizure was at 2.10 P.M. Having regard to the above submissions and the documents produced, the writ petition will stand disposed of in the following terms:

i). The 2nd respondent Adjudicating Authority will finalise the adjudication at his earliest and at any rate within four months of receiving a copy of this judgment.

ii). The petitioner will file an affidavit on stamp paper of value of Rs.50/- before the first respondent Tahsildar undertaking to produce the pick up van having registration

No.KL-7E 5459 in good running condition as and when directed in that regard by the 2nd respondent or any other authority. The petitioner will also remit a sum of Rs.7,500/- (Rupees Seven Thousand Five Hundred only) by cash before the first respondent. The 3rd respondent Sub Inspector of Police who is presently custodian of the pick up van and the load of sand will release the van with the load to the petitioner as soon as a copy of the affidavit sworn to by the petitioner as directed above and also the original of the receipt issued by the first respondent Tahsildar is noticed by him. It is made clear that such release will be subject to the final outcome of the adjudication proceedings which are to be completed by the 2nd respondent as already directed.

PIUS C.KURIAKOSE
Judge

dpk